



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------|------------------------|
| 10/616,698 | 07/09/2003 | Daniel A. Collens | 217.1010.01 | 1583 |
| 78037 7590 11/26/2008 KALIDEOSCAPE, INC. 440 POTRERO AVE. SUNNYVALE, CA 94085-4117 | | | EXAMINER BAUM, RONALD | |
| | | | ART UNIT 2439 | PAPER NUMBER |
| | | | MAIL DATE 11/26/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/616,698

Applicant(s)

COLLENS ET AL.

Examiner

RONALD BAUM

Art Unit

2439

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-42 and 44-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-42 and 44-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 20080310, 20080910
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in reply to applicant's correspondence of 10 September 2008.
2. Claims 16-42, 44-48 are pending for examination.
3. Claims 16-42, 44-48 are rejected.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10 September 2008 has been entered.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. The claims 32-48 rejection under 35 U.S.C. 101 is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The claims 22, 29-31, 38 and 44-47 rejection under 35 U.S.C. 112, second paragraph, is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 16-42, 44-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Downs et al, U.S. Patent 6,226,618 B1.

Prior Art's Broad Disclosure vs. Preferred Embodiments

6. As concerning the scope of applicability of cited references used in any art rejections below, as per MPEP § 2123, subsection R.5. Rejection Over Prior Art's Broad Disclosure Instead of Preferred Embodiments:

I. PATENTS ARE RELEVANT AS PRIOR ART FOR ALL THEY CONTAIN "The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). A reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art, including nonpreferred embodiments. Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989). See also > Upsher-Smith Labs. v. Pamlab, LLC, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005) (reference disclosing optional inclusion of a particular component teaches compositions that both do and do not contain that component); < Celeritas Technologies Ltd. v. Rockwell International Corp., 150 F.3d 1354, 1361, 47 USPQ2d 1516, 1522-23 (Fed. Cir. 1998) (The court held that the prior art anticipated the claims even though it taught away from the claimed invention.). > See also MPEP § 2131.05 and § 2145, subsection X.d., which discuss prior art that teaches away from the claimed invention in the context of anticipation and obviousness, respectively.<

II. NONPREFERRED AND ALTERNATIVE EMBODIMENTS CONSTITUTE PRIOR ART

Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). Furthermore, "[t]he prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives

Art Unit: 2439

because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed....” In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Downs et al *generally* teaches and suggests (i.e., Abstract, figures 1-16 and associated descriptions in general) the limitations set forth in the claims below.

7. As per claim 16; “A method, including steps of at a first node in a network, distributing digital content to a second node in that network, that digital content representing at least a portion of a media stream, at least a portion of that digital content being encrypted by a first encryption key [*Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured content (' digital content representing at least a portion of a media stream '), secured meta-data, secured licensing/metering and secured cryptographic parameters & encryption/decryption key(s) communications between network node entities (i.e., content creators (' digital content ... encrypted ... first encryption key '), distributors, licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of secured containers (SC), clearly encompasses the claim limitations, as broadly interpreted by the examiner.*]

those steps of distributing to a second node including steps of

(a) receiving a first decryption key,

that first decryption key

being encrypted by a second encryption key,

that second encryption key

being pre-assigned to that first node

[Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key(' receiving a first decryption key ... being encrypted by a second encryption key ') communications between network node entities (i.e., content creators (' pre-assigned to that first node '), distributors (' distributing to a second node '), licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.];

(b) decrypting that first decryption key

using a second decryption key

associated with that second encryption key,

that second decryption key

being pre-assigned to that first node

[Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key (' decrypting that first decryption key ... a second decryption key ') communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.];

(c) decrypting that digital content

using that first decryption key *[Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX,*

whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors ('decrypting that digital content ... using that first decryption key '), licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.];

(d) re-encrypting at least a portion of that digital content using a re-encryption key [Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors (' re-encrypting at least a portion of that digital content ... using a re-encryption key '), licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.].".

As per claim 32, this claim is the apparatus claim for the method claim 16 above, and is rejected for the same reasons provided for the claim 16 rejection; “Apparatus including
~~a physical medium maintaining~~ digital content representing at least a portion of a media stream, at least a portion of that digital content being encrypted by a first encryption key;
~~a physical medium maintaining~~ a first decryption key,
that first decryption key
being encrypted by a second encryption key,
that second encryption key
being pre-assigned to that apparatus;
a key decryption element ~~coupled to~~ associated with that first decryption key,
that key decrypting element having access to
a second decryption key associated with
that second encryption key,
that second decryption key
being pre-assigned to that apparatus;
a content decryption element ~~coupled to~~
for decrypting that digital content ~~and~~
with reference to that first decryption key;
a content re-encryption element ~~coupled to~~
for re-encrypting at least a portion of that digital content ~~and~~
with reference to a re-encryption key.”.

As per claim 48, this claim is the embodied software claim for the method claim 16 above, and is rejected for the same reasons provided for the claim 16 rejection.

8. Claim 17 additionally recites the limitation that; “A method as in claim 16, including steps of by a user of that digital content,
receiving a decryption key
associated with that re-encryption key.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses (' [receiving] a decryption key ... associated with that re-encryption key '), and users/user presentation (' by a user of that digital content '), display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 33, this claim is the apparatus claim for the method claim 17 above, and is rejected for the same reasons provided for the claim 17 rejection.

9. Claim 18 additionally recites the limitation that; “A method as in claim 16, including

steps of receiving at least one of
(a) that re-encryption key,
(b) a decryption key
associated with that re-encryption key,
at a server
having access to
that first decryption key.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses (' [receiving] ... re-encryption key ... a decryption key ... associated with that re-encryption key ... at a server '), and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 34, this claim is the apparatus claim for the method claim 18 above, and is rejected for the same reasons provided for the claim 18 rejection.

10. Claim 19 additionally recites the limitation that; “A method as in claim 16, including steps of receiving

that re-encryption key
from a server
having access to
that first decryption key.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors (' [receiving] ... re-encryption key ...from a server '), licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 35, this claim is the apparatus claim for the method claim 19 above, and is rejected for the same reasons provided for the claim 19 rejection.

11. Claim 20 additionally recites the limitation that; “A method as in claim 16, wherein at least one pair of:

that first encryption key and
that first decryption key,
that second encryption key and
that second decryption key,

that re-encryption key and
a decryption key associated with
that re-encryption key,
include
associated keys in
a public-key cryptosystem.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, V, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key ('one pair ... encryption key ... decryption key ... public-key cryptosystem ') communications between network node entities, licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 36, this claim is the apparatus claim for the method claim 20 above, and is rejected for the same reasons provided for the claim 20 rejection.

12. Claim 21 additionally recites the limitation that; “A method as in claim 16, wherein at least one pair of:

that first encryption key and
that first decryption key,

that second encryption key and
that second decryption key,
that re-encryption key and
a decryption key associated with
that re-encryption key,
include
associated keys in
a symmetric-key cryptosystem.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, V, VIII, IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key ('one pair ... encryption key ... decryption key ... symmetric-key cryptosystem') communications between network node entities, licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 37, this claim is the apparatus claim for the method claim 21 above, and is rejected for the same reasons provided for the claim 21 rejection.

13. Claim 22 additionally recites the limitation that; “A method as in claim 16, wherein
that second node includes one or more of:

~~a node in that network capable of
performing those steps of
distributing that digital content,~~
a recipient user,
a presentation device.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-III, VIII-X, whereas the secure digital content electronic distribution system/methods utilization of separate content creators, distributors, secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities, licensing/metering clearinghouses, and users (' second node ... a recipient user ')/user presentation, display and rendering devices (' second node ... a presentation device ')) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 38, this claim is the apparatus claim for the method claim 22 above, and is rejected for the same reasons provided for the claim 22 rejection.

14. Claim 23 additionally recites the limitation that; “A method as in claim 16, wherein that re-encryption key
is responsive to information from
that first node.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors (' re-encryption key ... responsive to information from [meta-data dealing with authorship of multimedia]'), licensing/metering [meta-data dealing with authorship multimedia compensation aspects] clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 39, this claim is the apparatus claim for the method claim 23 above, and is rejected for the same reasons provided for the claim 23 rejection.

15. Claim 24 additionally recites the limitation that; "A method as in claim 16, including steps of
- renewing or
- revoking
- a license associated with
- that media stream.".

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing ('

renewing ... revoking ... license ... media')/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

16. Claim 25 additionally recites the limitation that; "A method as in claim 16, wherein at least one of:

(a) that first decryption key,

(b) a decryption key associated with that re-encryption key

is associated with

a set of restrictions on

a license to

that digital content."

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing ('first decryption key ... decryption key associated with ... set of restrictions ... license ... digital content')/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses, and users/user presentation, display and rendering devices)

via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 40, this claim is the apparatus claim for the method claim 25 above, and is rejected for the same reasons provided for the claim 25 rejection.

17. Claim 26 additionally recites the limitation that; "A method as in claim 25, wherein those licensing restrictions include at least one of:

- a first date or time at which
 - presentation is allowed for that media stream;
- a last date or time at which
 - presentation is allowed for that media stream;
- a limited number of
 - presentations allowed for that media stream;
- a limited physical region at which
 - presentation is allowed for that media stream;
- a charge, cost, fee, or subscription associated with allowing
 - presentation of that media stream;
- a type of
 - presentation device;
- an output format for
 - a presentation device;

a set of
specific presentation devices;
a bit rate, sampling rate, or other measure of granularity or precision for
a presentation device.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-X, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing ('restrictions ... date or time ... type of ... presentation device ... specific presentation devices') /metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses, and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 41, this claim is the apparatus claim for the method claim 26 above, and is rejected for the same reasons provided for the claim 26 rejection.

18. Claim 27 additionally recites the limitation that; “A method as in claim 16, wherein
a decryption key associated with that re-encryption key
is pre-assigned to at least one of:
that second node,
a user of that digital content,
a presentation device associated with

a user of that digital content.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-IX, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses, and users /user (' decryption key ... pre-assigned to ... a user of that digital content ... presentation device ') presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 42, this claim is the apparatus claim for the method claim 27 above, and is rejected for the same reasons provided for the claim 27 rejection.

19. Claim 28 additionally recites the limitation that; “A method as in claim 16, wherein steps of distributing digital content to at least one of:

- (a) that first node,
- (b) that second node,
- (c) a user node

include

reading at least a portion of
that digital content from

physical media.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-X, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors (' distributing digital content ... node ... user node ... digital content from ... physical media [CD, DVD, etc.,])), licensing/metering clearinghouses, and users /user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

20. Claim 29 additionally recites the limitation that; “A method as in claim 16, wherein that digital content includes at least one of:

metadata about that media stream;

some information capable of

inspection by a user other than

for presentation of that media stream.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-X, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators (' digital content includes

... metadata about that media stream ... information ... inspection by a user [content author, artist, multimedia title, etc.,]), distributors, licensing/metering clearinghouses, and users /user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 44, this claim is the apparatus claim for the method claim 29 above, and is rejected for the same reasons provided for the claim 29 rejection.

21. Claim 30 additionally recites the limitation that; "A method as in claim 16, including steps of

delivering, to a user of that digital content,

that digital content in a form

being locked against inspection or tampering

by that user;

separately delivering, to that user,

a license including

a content key capable of

unlocking that digital content,

that content key

being locked against inspection or tampering by devices

other than a selected presentation device

owned by that user;

wherein

the selected presentation device is associated with

a presentation device key,

a secure portion of the presentation device being capable of

unlocking that license using

that presentation device key;

with the effect that

presentation of that digital content

is restricted to

that selected presentation device.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-X, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses (' delivering, to a user ... content in a form ... locked against inspection or tampering [license access control/authorization aspects] ... '), and users/user presentation (' selected presentation device ... presentation device key ... unlocking that license ... presentation of that digital content ... restricted to ... presentation device '), display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 45, this claim is the apparatus claim for the method claim 30 above, and is rejected for the same reasons provided for the claim 30 rejection.

22. Claim 31 additionally recites the limitation that; “A method as in claim 16, including steps of,

at a license server receiving an indication of
distribution of that digital content;
initiating delivery of
that first decryption key to
that first node;
separately initiating delivery of
a license for that digital content, that license including
a content key capable of
unlocking that digital content;
wherein that license is delivered in time to at least one of
(a) a user of that digital content,
(b) a device for presenting that digital content, or
(c) a node in that network.”.

The teachings of Downs et al are directed towards such limitations (i.e., Abstract, figures 1-16 and accompanying descriptions, and more particularly sections I-V, VII-X, whereas the secure digital content electronic distribution system/methods utilization of separate secured licensing/metering and secured cryptographic parameters & encryption/decryption key

communications between network node entities (i.e., content creators, distributors, licensing/metering clearinghouses (' at a license server ... indication of distribution... initiating delivery ... decryption key ... separately initiating delivery of ... license ... unlocking that digital content [license access control/authorization aspects] ... delivered in time to ... user ... device for presenting ...'), and users/user presentation, display and rendering devices) via the use of SCs, clearly encompasses the claim limitations, as broadly interpreted by the examiner.).

As per claim 46, this claim is the apparatus claim for the method claim 31 above, and is rejected for the same reasons provided for the claim 31 rejection.

23. As per claim 47, this claim is the independent apparatus variation of claims 46 above, and is rejected for the same reasons provided for the claim 46 rejection; "Apparatus including

an input port ~~coupleable~~ coupled to a network;

a receiving element coupled to that input port,

being disposed to receive an indication of

distribution of digital content

representing at least a portion of a media stream,

at least a portion of that digital content

being encrypted;

an output port ~~coupleable~~ coupled to that network;

a sending element coupled to

(a) that output port,

- (b) a physical medium maintaining a message including
information sufficient to decrypt that digital content,
- (c) a physical medium maintaining a message including
information sufficient to re-encrypt that digital content, and
- (d) a physical medium maintaining a separate message including
information sufficient to access a license for that digital content, that
license including a content key capable of unlocking that digital content;
wherein that license is delivered in time to at least one of:
 - a user of that digital content,
 - a device for presenting that digital content, or
 - a node in that network.”.

Response to Arguments

24. As per applicant’s argument concerning the lack of teaching by Downs et al of the same network node involved in the decryption of the encrypted decryption key, and the decryption of the content, the examiner has fully considered in this response to amendment; the arguments, and finds them not to be persuasive, and further, explicit reference to the same node aspect is not claimed in any of the independent claims 16, 32, 47 or 48, while it is implied in various dependent claims (e.g., claim 22).

However, at the very least, in the case of the compliant end user/end user player/player application, or rendering device, utilizing watermark rights (i.e., ‘... since watermarks become an integral part of the content [col.. 7, line 66] ...’) protection embodiment (e.g., col. 6, lines 65-col.

8, line 53, col. 10, lines 49-col. 11, line 54, as a pretext to the associated figures descriptions), the cryptographic (i.e., encryption/decryption keys, etc.,) aspects of the watermark as associated with the elements used for the various protection, metering, copy authorization and rendering aspects (i.e., the end user/device/application can only use the rendered content if it and its associated key(s) are decrypted), as *broadly interpreted by the examiner*, as per the claim language, and would therefore be applicable in the rejection, such that the rejection support references collectively encompass the said claim limitations in their entirety.

25. As per applicant's argument concerning the lack of teaching by Downs et al of the re-encryption of content, the examiner has fully considered in this response to amendment; the arguments, and finds them not to be persuasive.

At the very least, as in the case of the compliant end user/end user player/player application, or rendering device, utilizing watermark rights protection embodiment (e.g., col. 6, lines 65-col. 8, line 53, col. 10, lines 49-col. 11, line 54, as a pretext to the associated figures descriptions) discussed above, the cryptographic (i.e., encryption/decryption keys, etc.,) aspects of the watermark as associated with the elements used for the various protection, metering, copy authorization and *subsequent copying re-authorization aspects* (i.e., the end user/device/application can only be authorized to allow further rendering or copying based on the watermark information re-applied as per the watermark information re-encrypted via associated key(s)), as *broadly interpreted by the examiner*, as per the claim language, and would therefore be applicable in the rejection, such that the rejection support references collectively encompass the said claim limitations in their entirety.

Conclusion

26. Any inquiry concerning this communication or earlier communications from examiner should be directed to Ronald Baum, whose telephone number is (571) 272-3861, and whose unofficial Fax number is (571) 273-3861 and unofficial email is Ronald.baum@uspto.gov. The examiner can normally be reached Monday through Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand, can be reached at (571) 272-3811. The Fax number for the organization where this application is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. For more information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Baum

Patent Examiner

/R. B./

Examiner, Art Unit 2439

/Kambiz Zand/

Supervisory Patent Examiner, Art Unit 2434

/Andrew L Nalven/

Primary Examiner, Art Unit 2434